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9  
10 **UNITED STATES DISTRICT COURT**  
11 **CENTRAL DISTRICT OF CALIFORNIA, WESTERN DIVISION**  
12

13 SUNIL KUMAR, Ph. D., PRAVEEN  
14 SINHA, Ph. D.,

15 Plaintiffs,

16 v.

17 DR. JOLENE KOESTER, in her  
official capacity as Chancellor of  
California State University,

18 Defendant.  
19

Case No. 2:22-cv-07550-RGK-MAA

**DEFENDANT'S ANSWER TO  
PLAINTIFFS' FIRST AMENDED  
COMPLAINT AND DEMAND FOR  
JURY TRIAL**

Judge: R. Gary Klausner  
Trial Date: Not Set

20 Dr. Jolene Koester, in her official capacity as Chancellor of California State  
21 University ("CSU"), ("Defendant"), answers the First Amended Complaint filed  
22 herein by admitting, denying and alleging as follows.

23 1. Answering paragraph 1, Defendant admits that the CSU Policy  
24 Prohibiting Discrimination, Harassment, Sexual Misconduct, Sexual Exploitation,  
25 Domestic Violence, Stalking, and Retaliation (Nondiscrimination Policy)  
26 (hereinafter, the "CSU Nondiscrimination Policy") became effective on January 1,  
27 2022, and that it includes the language cited in paragraph 1.

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1           2.     Answering paragraph 2, Defendant admits that the word “caste” was  
2 added to the CSU Nondiscrimination Policy, but denies each and every remaining  
3 allegation in paragraph 2.

4           3.     Answering paragraph 3, Defendant denies that the CSU intended to  
5 target members of the Indian/South Asian community and adherents of the Hindu  
6 religion for disparate treatment under the CSU Nondiscrimination Policy. Defendant  
7 lacks sufficient information or belief to respond to the allegation regarding positions  
8 taken by “the State of California.” The allegation that CSU operates “under” the State  
9 of California is indecipherable, and Defendant is unable to respond; to the extent a  
10 response is required, Defendant denies the allegation. Defendant further denies each  
11 and every remaining allegation in paragraph 3.

12          4.     Answering paragraph 4, Defendant denies all allegations in paragraph 4.

13          5.     Answering paragraph 5, Defendant denies that the CSU  
14 Nondiscrimination Policy seeks to define the Hindu religion in any manner.  
15 Paragraph 5 includes a statement of law that does not qualify as an allegation and does  
16 not require a response; to the extent that a response is required, Defendant admits that  
17 Plaintiffs accurately quote the cases cited in this paragraph, but denies that the  
18 paragraph constitutes a complete statement of the law. Defendant lacks sufficient  
19 information or belief to respond to the allegation regarding the accuracy or inaccuracy  
20 of views regarding religious doctrine. Defendant further denies each and every  
21 remaining allegation in paragraph 5.

22          6.     Answering paragraph 6, Defendant denies that the CSU  
23 Nondiscrimination Policy singles out anyone, and further denies that the CSU  
24 Nondiscrimination Policy singles out any specific ethnicity, ancestry, religion, or  
25 religious practice. The allegation that “no other Protected Status in the Interim Policy  
26 ‘addresses’ any specific ethnicity, ancestry, religion or alleged religious practices” is  
27 indecipherable, and Defendant is unable to respond; to the extent a response is  
28 required, Defendant admits that the CSU Nondiscrimination Policy does not

1 specifically identify any ethnicity, ancestry, religion or religious practice in any  
2 respect, but otherwise denies the allegation. Paragraph 6 includes a statement of law  
3 that does not qualify as an allegation and does not require a response; to the extent  
4 that a response is required, Defendant admits that Plaintiffs accurately quote the cases  
5 cited in this paragraph, but denies that the paragraph constitutes a complete statement  
6 of the law. Defendant further denies each and every remaining allegation in paragraph  
7 6.

8       7. Answering paragraph 7, Defendant admits that the CSU  
9 Nondiscrimination Policy does not define “caste.” Defendant denies each and every  
10 remaining allegation in paragraph 7.

11       8. Answering paragraph 8, Defendant lacks sufficient information or belief  
12 to form a belief about the truth of the allegations contained therein.

13       9. Answering paragraph 9, Defendant lacks sufficient information of belief  
14 to form a belief about the truth of the allegation that Plaintiffs applaud and are in  
15 agreement with CSU’s efforts to take a firm stance in favor of inclusion and  
16 discrimination. Defendant denies each and every remaining allegation in paragraph  
17 9.

18       10. Answering paragraph 10, Defendant admits that Plaintiffs purportedly  
19 seek a determination that the term “caste” as used in the CSU Nondiscrimination  
20 Policy is unconstitutionally vague, but denies that the relief they seek is warranted,  
21 and further denies each and every remaining allegation in paragraph 10.

22       11. Answering paragraph 11, Defendant admits that its prior policies already  
23 precluded discrimination based on ethnicity and religion. Defendant denies each and  
24 every remaining allegation in paragraph 11.

25       12. Answering paragraph 12, Defendant admits that Plaintiffs’ complaint  
26 seeks an injunction, but denies they are entitled to any relief, and further denies each  
27 and every remaining allegation in paragraph 12.

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1           13. Answering paragraph 13, paragraph 13 includes a statement of law that  
2 does not qualify as an allegation and does not require a response; to the extent that a  
3 response is required, Defendant admits that Plaintiffs accurately quote the case cited  
4 in this paragraph, but denies that the paragraph constitutes a complete statement of  
5 the law. Defendant denies each and every remaining allegation in paragraph 13.

6           14. Answering paragraph 14, Defendant denies each and every allegation in  
7 paragraph 14.

8           15. Paragraph 15 incorporates by reference the foregoing paragraphs of the  
9 First Amended Complaint. Answering Paragraph 15, Defendant incorporates by  
10 reference the foregoing paragraphs of this Answer to the First Amended Complaint.

11           16. Answering paragraph 16, Defendant admits that Plaintiff Sunil Kumar is  
12 a Professor and Thomas G. Pine Faculty Fellow in the Electrical and Computer  
13 Engineering Department at San Diego State University, which is in the CSU system.  
14 Defendant lacks sufficient information or belief to form a belief about the truth of the  
15 remaining allegations in paragraph 16.

16           17. Answering paragraph 17, Defendant admits that Plaintiff Praveen Sinha  
17 is a professor of Accountancy in the College of Business Administration at California  
18 State University Long Beach, which is in the CSU system. Defendant lacks sufficient  
19 information or belief to form a belief about the truth of the remaining allegations in  
20 paragraph 17.

21           18. Answering paragraph 18, Defendant lacks sufficient information or  
22 belief to form a belief about the truth of the allegations in paragraph 18.

23           19. Answering paragraph 19, Defendant lacks sufficient information or  
24 belief to form a belief about the truth of the allegations regarding whether Plaintiffs  
25 identify as being members of any caste, nor as to their allegations as to what they fear.

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1 The remainder of the paragraph constitutes a question rather than an allegation, and  
2 thus Defendant is unable to admit or deny; to the extent that a response is required,  
3 Defendant denies the implication of the question that enforcement of non-  
4 discrimination provisions requires attribution of protected categories.

5 20. Answering paragraph 20, Defendant denies each and every allegation in  
6 paragraph 20.

7 21. Answering paragraph 21, Defendant denies each and every allegation in  
8 paragraph 21.

9 22. Answering paragraph 22 and the footnote thereto, Defendant lacks  
10 sufficient information or belief to form a belief about the truth of Plaintiffs'  
11 allegations regarding what they support. Defendant lacks sufficient information or  
12 belief to respond to the allegation regarding how "California" interprets and uses the  
13 term "caste." Defendant denies each and every remaining allegation in paragraph 22.

14 23. Answering paragraph 23, Defendant admits that California State  
15 University is not a party to this action, that it is a public university, and that it has 23  
16 campuses across the state. The allegation that the university is "operated by the State  
17 of California" is indecipherable; to the extent that a response is required, Defendant  
18 denies it.

19 24. Answering paragraph 24, Defendant admits that the Chancellor of CSU  
20 is responsible for adopting and/or enforcing the CSU Nondiscrimination Policy and  
21 that the complaint names Defendant only in their official capacities, but denies each  
22 and every remaining allegation in the paragraph 24.

23 25. Answering paragraph 25, Defendant admits that CSU is considered an  
24 arm of the state. Paragraph 25 includes a statement of law that does not qualify as an  
25 allegation and does not require a response; to the extent that a response is required,  
26 Defendant denies each and every remaining allegation in paragraph 25.

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1           26. Paragraph 26 incorporates by reference the foregoing paragraphs of the  
2 Complaint. Answering paragraph 26, Defendant incorporate by reference the  
3 foregoing paragraphs of this Answer.

4           27. Answering paragraph 27, Defendant admits that this action arises under  
5 federal law, but denies that this Court has jurisdiction over this case because Plaintiffs  
6 lack standing and the matter is not ripe.

7           28. Answering paragraph 28, Defendant denies each and every allegation in  
8 paragraph 29.

9           29. Answering paragraph 29, Defendant admits that Plaintiffs contend that  
10 venue is proper in this District. To the extent that the remaining allegations set forth  
11 in paragraph 29 constitute a statement of position, a statement of law or argument  
12 those allegations require no response.

13           30. Paragraph 30 incorporates by reference the foregoing paragraphs of the  
14 First Amended Complaint. Answering paragraph 30, Defendant incorporates by  
15 reference the foregoing paragraphs of this Answer to the First Amended Complaint.

16           31. Answering paragraph 31, Defendant admits that the CSU  
17 Nondiscrimination Policy applies to employees, professors and students, and that it  
18 prohibits the specified discrimination and harassment. Defendant further admits that  
19 the policy became effective on January 1, 2022.

20           32. Answering paragraph 32, Defendant admits.

21           33. Answering paragraph 33, Defendant admits that the CSU  
22 Nondiscrimination Policy prohibits discrimination and harassment based on  
23 Ethnicity, and that caste is listed as subcategory following “Race or Ethnicity.”  
24 Defendant admits that certain employees at CSU “who know[] or have reason to know  
25 of incidents that may violate th[e] Nondiscrimination Policy ha[ve] a duty to promptly  
26 report,” but denies that this reporting obligation applies to all CSU employees.

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1           34. Answering paragraph 34, Defendant admits that the Nondiscrimination  
2 Policy does not define “caste.” Defendant denies each and every remaining allegation  
3 in paragraph 34.

4           35. Answering paragraph 35, Defendant denies the allegation that “caste is  
5 not a term that is familiar to the vast majority of CSU employees, professors or  
6 students.”

7           36. Answering paragraph 36, Defendant denies each and every allegation in  
8 paragraph 36.

9           37. Answering paragraph 37, Defendant admits that the paragraph accurately  
10 quotes a complaint filed in Santa Clara Superior Court, but lacks sufficient  
11 information or belief to respond to the allegation regarding what positions are taken  
12 by “the State of California.” The allegation that CSU operates “under” the State of  
13 California is indecipherable, Defendant is unable to respond; to the extent a response  
14 is required, Defendant denies the allegation.

15           38. Answering paragraph 38, Defendant admits that Plaintiffs correctly  
16 quotes from a California Faculty Association resolution. Except as expressly  
17 admitted, Defendant denies each and every allegation in paragraph 38 of the  
18 complaint.

19           39. Answering paragraph 39, Defendant denies each and every allegation in  
20 paragraph 39.

21           40. Paragraph 40 incorporates by reference the foregoing paragraphs of the  
22 First Amended Complaint. Answering paragraph 40, Defendant incorporates by  
23 reference the foregoing paragraphs of this Answer to the First Amended Complaint.

24           41. Answering paragraph 41, paragraph 41 consists of a statement of law  
25 that does not qualify as an allegation and does not require a response; to the extent  
26 that a response is required, Defendant admits that Plaintiffs accurately quote the  
27 Constitution, but denies that the paragraph constitutes a complete statement of the  
28 law.



1       42. Answering paragraph 42, Defendant lacks sufficient information to  
2 admit or deny.

3       43. Answering paragraph 43, Defendant admits.

4       44. Answering paragraph 44, paragraph 44 consists of a statement of law  
5 that does not qualify as an allegation and does not require a response; to the extent  
6 that a response is required, Defendant admits that Plaintiffs accurately quotes the cited  
7 case, but denies that the paragraph constitutes a complete statement of the law.

8       45. Answering paragraph 45, Paragraph 45 includes a statement of law that  
9 does not qualify as an allegation and does not require a response; to the extent that a  
10 response is required, Defendant admits that Plaintiffs accurately quote the cited case,  
11 but denies that the paragraph constitutes a complete statement of the law.

12       46. Answering paragraph 46, Defendant denies each and every allegation of  
13 paragraph 46.

14       47. Answering paragraph 47, paragraph 47 consists of a statement of law  
15 that does not qualify as an allegation and does not require a response; to the extent  
16 that a response is required, Defendant denies that Plaintiffs' assertion accurately  
17 summarizes any legal case or rule.

18       48. Answering paragraph 48, paragraph 48 includes a statement of law that  
19 does not qualify as an allegation and does not require a response; to the extent that a  
20 response is required, Defendant admits that Plaintiffs accurately quote the cited cases,  
21 but denies that the paragraph constitutes a complete statement of the law.

22       49. Answering paragraph 49, Defendant denies each and every allegation in  
23 paragraph 49.

24       50. Answering paragraph 50, Defendant denies that the Constitution  
25 prohibits "linking" a caste system and the Hindu religion, and lacks sufficient  
26 information to form a belief about the truth of the remaining allegations alleged in  
27 paragraph 50.

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1           51. Answering paragraph 51, Defendant lacks sufficient information form a  
2 belief about the truth of the allegations contained therein.

3           52. Answering paragraph 52, paragraph 52 includes a statement of law that  
4 does not qualify as an allegation and does not require a response; to the extent that a  
5 response is required, Defendant admits that Plaintiffs accurately quote the cited case,  
6 but denies that the paragraph constitutes a complete statement of the law.

7           53. Answering paragraph 53, paragraph 53 includes a statement of law that  
8 does not qualify as an allegation and does not require a response; to the extent that a  
9 response is required, Defendant admits that Plaintiffs accurately quote the cited case,  
10 but denies that the paragraph constitutes a complete statement of the law.

11           54. Answering paragraph 54, paragraph 54 includes statements of law that  
12 do not qualify as allegation and does not require a response; to the extent that a  
13 response is required, Defendant admits that Plaintiffs accurately quote the cited case,  
14 but denies that the paragraph constitutes a complete statement of the law.

15           55. Answering paragraph 55, paragraph 55 includes a statement of law that  
16 does not qualify as an allegation and does not require a response; to the extent that a  
17 response is required, Defendant denies that the cited cases (*Al Saud v. Days*, 36 F.4th  
18 949, 953 (9th Cir. 2022) or *Mitchell v. Washington*, 818 F.3d 436 (9th Cir. 2018))  
19 support the cited proposition, nor that the cited proposition constitutes a complete  
20 statement of the law.

21           56. Answering paragraph 56, Defendant denies each and every allegation in  
22 paragraph 56.

23           57. Answering paragraph 57, Defendant denies each and every allegation in  
24 paragraph 57.

25           58. Answering paragraph 58, paragraph 58 includes a statement of law that  
26 does not qualify as an allegation and does not require a response; to the extent that a  
27 response is required, Defendant admits that Plaintiffs accurately quote the cited case,  
28 but denies that the paragraph constitutes a complete statement of the law.

1           59. Answering paragraph 59, paragraph 59 includes a statement of law that  
2 does not qualify as an allegation and does not require a response; to the extent that a  
3 response is required, Defendant admits that Plaintiffs accurately quote *Wal-Mart*  
4 *Stores, Inc. v. City of Turlock*, 483 F. Supp. 2d 987 (E.D. Cal. 2006), but denies that  
5 the quotation constitutes a complete statement of the law, and denies that Plaintiffs  
6 accurately summarize *Santa Cruz Lesbian & Gay Comm. Ctr. V. Trump*, 508 F. Supp.  
7 3d 521 (N.D. Cal. 2020).

8           60. Answering paragraph 60, Defendant denies each and every allegation in  
9 paragraph 60.

10          61. Answering paragraph 61, Defendant admits that the CSU  
11 Nondiscrimination Policy does not define “caste” or identify the basis for  
12 characterizing it as a subcategory. Defendant denies each and every remaining  
13 allegation in paragraph 61.

14          62. Answering paragraph 62, Defendant denies each and every allegation in  
15 paragraph 62.

16          63. Answering paragraph 63, Defendant denies each and every allegation in  
17 paragraph 65.

18          64. Paragraph 64 incorporates by reference the foregoing paragraphs of the  
19 First Amended Complaint. Answering Paragraph 64, Defendant incorporates by  
20 reference the foregoing paragraphs of this Answer to the First Amended Complaint.

21          65. Answering paragraph 65, Defendant denies each and every allegation in  
22 paragraph 65.

23          66. Answering paragraph 66, Defendant denies each and every allegation in  
24 paragraph 66.

25          67. Answering paragraph 67, Defendant denies each and every allegation  
26 paragraph 67.

27          68. Answering paragraph 68, Defendant denies each and every allegation  
28 paragraph 67.

1           69. Paragraph 69 incorporates by reference the foregoing paragraphs of the  
2 First Amended Complaint. Answering paragraph 69, Defendant incorporates by  
3 reference the foregoing paragraphs of this Answer to the First Amended Complaint.

4           70. Answering paragraph 70, Defendant admits that 42 U.S.C. section 1983  
5 states: “Every person who, under color of any statute, ordinance, regulation, custom,  
6 or usage, of any State or Territory or the District of Columbia, subjects, or causes to  
7 be subjected, any citizen of the United States or other person within the jurisdiction  
8 thereof to the deprivation of any rights, privileges, or immunities secured by the  
9 Constitution and laws, shall be liable to the party injured in an action at law, suit in  
10 equity, or other proper proceeding . . . .” Defendant denies that Plaintiffs’ summary  
11 of the statute constitutes a complete summary of the law.

12           71. Answering paragraph 71, Defendant admits.

13           72. Answering paragraph 72, Defendant admits that the Chancellor was and  
14 is a state actor and/or acting under color of state law with respect to the  
15 Nondiscrimination Policy. Defendant denies each and every remaining allegation in  
16 paragraph 72.

17           73. Answering paragraph 73, Defendant admits that Plaintiffs may sue for  
18 First Amendment violations under 42 U.S.C. section 1983 in certain circumstances,  
19 but denies that Plaintiffs’ statement constitutes a complete statement of the law.

20           74. Answering paragraph 74, paragraph 74 consists of a statement of law  
21 that does not qualify as an allegation and does not require a response; to the extent  
22 that a response is required, Defendant admits that Plaintiffs accurately quote the cited  
23 cases, but denies that the paragraph constitutes a complete statement of the law.

24           75. Answering paragraph 75, Defendant denies each and every allegation in  
25 paragraph 75.

26           76. Answering paragraph 76, Defendant denies each and every allegation in  
27 paragraph 76.

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1           77.     Answering paragraph 77, Defendant denies each and every allegation in  
2 paragraph 77.

3           78.     Answering paragraph 78, Defendant denies each and every allegation in  
4 paragraph 78.

5           79.     Answering paragraph 79, Defendant denies each and every allegation in  
6 paragraph 79.

7           80.     Answering paragraph 80, Defendant denies each and every allegation in  
8 paragraph 80.

9           81.     Answering paragraph 81, Defendant denies each and every allegation in  
10 paragraph 81.

11          82.     Answering paragraph 82, Defendant denies each and every allegation in  
12 paragraph 82.

13          83.     Answering paragraph 83, Defendant denies each and every allegation in  
14 paragraph 83.

15          84.     Answering paragraph 84, Defendant denies each and every allegation in  
16 paragraph 84.

17          85.     Paragraph 85 incorporates by reference the foregoing paragraphs of the  
18 First Amended Complaint. Answering Paragraph 85, Defendant incorporates by  
19 reference the foregoing paragraphs of this Answer to the First Amended Complaint.

20          86.     Answering paragraph 86, Defendant denies each and every allegation in  
21 paragraph 86.

22          87.     Answering paragraph 87, the allegation that “[n]o other religion or  
23 religious practice is included in the Interim Policy” is indecipherable, and Defendant  
24 is unable to respond; to the extent a response is required, Defendant admits that the  
25 Nondiscrimination Policy does not specifically identify any religion or religious  
26 practice but otherwise denies the allegation.

27          88.     Answering paragraph 88, Defendant denies each and every allegation in  
28 paragraph 88.

1           89.    Answering paragraph 89, Defendant admits that the Chancellor was and  
2 is a state actor and/or acting under color of state law with respect to the  
3 Nondiscrimination Policy. Defendant denies each and every remaining allegation in  
4 paragraph 89.

5           90.    Answering paragraph 90, Defendant admits that the Chancellor was and  
6 is a state actor and/or acting under color of state law with respect to the  
7 Nondiscrimination Policy. Defendant denies each and every remaining allegation in  
8 paragraph 90.

9           91.    Answering paragraph 91, Defendant denies each and every allegation in  
10 paragraph 91.

11          92.    Answering paragraph 92, Defendant denies each and every allegation in  
12 paragraph 92.

13          93.    Answering paragraph 93, Defendant denies each and every allegation in  
14 paragraph 93.

15          94.    Answering paragraph 94, Defendant denies each and every allegation in  
16 paragraph 94.

17          95.    Answering paragraph 95, Defendant denies each and every allegation in  
18 paragraph 95.

19          96.    Answering paragraph 96, Defendant denies each and every allegation in  
20 paragraph 96.

21          97.    Answering paragraph 97, Defendant denies each and every allegation in  
22 paragraph 97.

23          98.    Paragraph 98 incorporates by reference the foregoing paragraphs of the  
24 First Amended Complaint. Answering paragraph 98, Defendant incorporates by  
25 reference the foregoing paragraphs of this Answer to the First Amended Complaint.

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1           99. Answering paragraph 99, to the extent that a response is required to  
2 Plaintiffs' assertions of law, Defendant admits that Plaintiffs accurately quote the  
3 Constitution, but denies that the paragraph constitutes a complete statement of the  
4 law. Defendant denies each and every remaining allegation in paragraph 99.

5           100. Answering paragraph 100, paragraph 100 includes a statement of law  
6 that does not qualify as an allegation and does not require a response; to the extent  
7 that a response is required, Defendant denies that *Barnes v. Wallace v. City of San*  
8 *Diego*, 704 F.3d 1067 (9th Cir. 2012) stands for the proposition that "the Religion  
9 Clauses of the California Constitution offer religion the same, if not more, protections  
10 as those under the Federal Constitution." Defendant denies each and every remaining  
11 allegation in paragraph 100.

12           101. Answering paragraph 101, Defendant denies each and every allegation  
13 in paragraph 101.

14           102. Answering paragraph 102, Defendant denies each and every allegation  
15 in paragraph 102.

16           103. Answering paragraph 103, Defendant denies each and every allegation  
17 in paragraph 103.

18           104. Answering paragraph 104, Defendant denies each and every allegation  
19 in paragraph 104.

20           105. Answering paragraph 105, Defendant denies each and every allegation  
21 in paragraph 105.

22           106. Paragraph 106 incorporates by reference the foregoing paragraphs of the  
23 First Amended Complaint. Answering paragraph 106, Defendant incorporates by  
24 reference the foregoing paragraphs of this Answer to the First Amended Complaint.

25           107. Answering paragraph 107, to the extent that a response is required to  
26 Plaintiffs' assertions of law, Defendant admits that Plaintiffs accurately quote the  
27 Constitution, but denies that the paragraph constitutes a complete statement of the  
28 law.

1           108. Answering paragraph 108, to the extent that a response is required to  
2 Plaintiffs' assertions of law, Defendant admits that Plaintiffs may sue for Equal  
3 Protection Clause violations under 42 U.S.C. section 1983 in certain circumstances,  
4 but denies that Plaintiffs' statement constitutes a complete statement of the law.

5           109. Answering paragraph 109, paragraph 109 consists of a statement of law  
6 that does not qualify as an allegation and does not require a response; to the extent  
7 that a response is required, Defendant admits that Plaintiffs accurately quote the case  
8 cited in this paragraph, but denies that the paragraph constitutes a complete statement  
9 of the law.

10           110. Answering paragraph 110, Defendant denies each and every allegation  
11 in paragraph 110.

12           111. Answering paragraph 111, Defendant admits that the Chancellor was and  
13 is a state actor and/or acting under color of state law with respect to the  
14 Nondiscrimination Policy. Defendant denies each and every remaining allegation in  
15 paragraph 111.

16           112. Answering paragraph 112, Defendant admits that the Chancellor was and  
17 is a state actor and/or acting under color of state law with respect to the  
18 Nondiscrimination Policy. Defendant denies each and every remaining allegation in  
19 paragraph 112.

20           113. Answering paragraph 113, Defendant denies each and every allegation  
21 in paragraph 113.

22           114. Answering paragraph 114, Defendant denies each and every allegation  
23 in paragraph 114.

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1           115. Answering paragraph 115, the allegation that “[n]o other religion,  
2 alleged religious practice, or ancestry are ‘contained’ in the Interim Policy” is  
3 indecipherable, and Defendant is unable to respond; to the extent a response is  
4 required, Defendant admits that the CSU Nondiscrimination Policy does not  
5 specifically identify any religion, religious practice, or specific type of ancestry, but  
6 otherwise denies the allegation.

7           116. Answering paragraph 116, Defendant denies each and every allegation  
8 in paragraph 116.

9           117. Answering paragraph 117, Defendant denies each and every allegation  
10 in paragraph 117.

11           118. Answering paragraph 118, Defendant denies each and every allegation  
12 in paragraph 118.

13           119. Answering paragraph 119, Defendant denies each and every allegation  
14 in paragraph 119.

15           120. Paragraph 120 incorporates by reference the foregoing paragraphs of the  
16 First Amended Complaint. Answering paragraph 120, Defendant incorporates by  
17 reference the foregoing paragraphs of this Answer to the First Amended Complaint.

18           121. Answering paragraph 121, paragraph 121 consists of a statement of law  
19 that does not qualify as an allegation and does not require a response; to the extent  
20 that a response is required, Defendant admits that Plaintiffs accurately quote the cases  
21 cited in this paragraph, but denies that the paragraph constitutes a complete statement  
22 of the law. Defendant denies each and every remaining allegation in paragraph 121.

23           122. Answering paragraph 122, Defendant denies each and every allegation  
24 in paragraph 122.

25           123. Paragraph 123 incorporates by reference the foregoing paragraphs of the  
26 First Amended Complaint. Answering Paragraph 123, Defendant incorporates by  
27 reference the foregoing paragraphs of this Answer to the First Amended Complaint.

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1           124. Answering paragraph 124, paragraph 124 consists of a statement of law  
2 that does not qualify as an allegation and does not require a response; to the extent  
3 that a response is required, Defendant admits that Plaintiffs accurately quote the case  
4 cited in this paragraph, but denies that the paragraph constitutes a complete statement  
5 of the law.

6           125. Answering paragraph 125, paragraph 125 consists of a statement of law  
7 that does not qualify as an allegation and does not require a response; to the extent  
8 that a response is required, Defendant admits that Plaintiffs accurately quotes the case  
9 cited in this paragraph, but denies that the paragraph constitutes a complete statement  
10 of the law.

11           126. Answering paragraph 126, to the extent that a response is required to  
12 Plaintiffs assertions of law, Defendant admits that Plaintiffs may bring void for  
13 vagueness claims under 42 U.S.C. section 1983 in certain circumstances, but denies  
14 that Plaintiffs' statement constitutes a complete statement of the law.

15           127. Answering paragraph 127, paragraph 127 consists of a statement of law  
16 that does not qualify as an allegation and does not require a response; to the extent  
17 that a response is required, Defendant admits that Plaintiffs accurately quotes the case  
18 cited in this paragraph, but denies that the paragraph constitutes a complete statement  
19 of the law.

20           128. Answering paragraph 128, Defendant admits that the CSU  
21 Nondiscrimination Policy does not define "caste." Defendant denies each and every  
22 remaining allegation in paragraph 128.

23           129. Answering paragraph 129, Defendant denies each and every allegation  
24 in paragraph 129.

25           130. Answering paragraph 130, Defendant denies each and every allegation  
26 in paragraph 130.

27           131. Answering paragraph 131, Defendant denies each and every allegation  
28 in paragraph 131.

1           132. Answering paragraph 132, Defendant denies each and every allegation  
2 in paragraph 132.

3           133. Answering paragraph 133, Defendant denies each and every allegation  
4 in paragraph 133.

5           134. Answering paragraph 134, Defendant denies each and every allegation  
6 in paragraph 134.

7           135. Answering paragraph 135, Defendant denies each and every allegation  
8 in paragraph 135.

9           136. Answering paragraph 136, Defendant denies each and every allegation  
10 in paragraph 136.

11           137. Paragraph 137 incorporates by reference the foregoing paragraphs of the  
12 First Amended Complaint. Answering Paragraph 137, Defendant incorporate by  
13 reference the foregoing paragraphs of this Answer to the First Amended Complaint.

14           138. Answering paragraph 138, paragraph 138 consists of a statement of law  
15 that does not qualify as an allegation and does not require a response; to the extent  
16 that a response is required, Defendant admits that Plaintiffs accurately quote the cases  
17 cited in this paragraph, but denies that the paragraph constitutes a complete statement  
18 of the law. Defendant denies that the CSU Nondiscrimination Policy is void for  
19 vagueness under the California Constitution or under the Federal Constitution, and  
20 further denies each and every remaining allegation of the paragraph.

21           139. Answering Plaintiffs' Prayer for Relief, Defendant denies that Plaintiffs  
22 are entitled to the relief requested or any relief, and further denies that they have been  
23 damaged in any nature or amount.

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**DEFENSES**

**FIRST DEFENSE**

**(FAILURE TO STATE A CLAIM)**

The complaint and each of its causes of action fail to state a claim upon which relief can be granted against Defendant.

**SECOND DEFENSE**

**(STANDING)**

The complaint and each of its causes of action fail to state a claim because Plaintiffs lack standing to assert those claims.

**THIRD DEFENSE**

**(RIPENESS)**

Plaintiffs' complaint and each of its causes of action are barred, in whole or in part, by the doctrine of ripeness.

**FOURTH DEFENSE**

**(ELEVENTH AMENDMENT)**

Plaintiffs' request for relief other than declaratory relief and prospective injunctive relief is barred under the Eleventh Amendment to the U.S. Constitution.

**FIFTH DEFENSE**

**(RESERVATION OF DEFENSE)**

Defendant does not presently know all of the facts and circumstances respecting Plaintiffs' claims, and therefore reserves the right to amend this answer should they later discover information demonstrating the existence of additional affirmative defenses.

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1 WHEREFORE, said Defendant prays as follows:

- 2 1. That the action be dismissed with prejudice;
- 3 2. That Plaintiffs take nothing by this action;
- 4 3. That Defendant recover costs of suit incurred herein;
- 5 4. For such other and further relief as the Court deems proper and just.
- 6

7 Dated: March 20, 2023

QUARLES & BRADY LLP

8

9 By: /s/ Matthew W. Burris

10 RICHARD A. PAUL

11 JEFFREY P. MICHALOWSKI

MATTHEW W. BURRIS

12 ADRIELLI FERRER

13 Attorneys for Dr. Jolene Koester, in her  
14 official capacity as Chancellor of California  
15 State University  
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